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10/664,591

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EXAMINER

HO, CHUONG T

ART UNIT

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2619

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|----------------------------------|--|
| Office Action Summary | Application No. 10/664,591 | Applicant(s) WU ET AL. | |
| | Examiner CHUONG T. HO | Art Unit 2619 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/12/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed 05/12/08 have been entered and made of record.
2. Applicant's arguments filed 05/12/08 have been fully considered but they are not persuasive.

In the page 5, lines 25-26, the applicant argues that "Chase (7,092,389) does not discloses neither the VLAN priority nor the VLAN tagid identify a service provisioned for the customer site as recited in independent claims.

However, the examiner respectfully disagrees with the applicant's arguments.

Chase discloses the inner tag value identifies a service provisioned for the customer site (figure 5, col. 5, lines 30-38, the ATM switch 30 maps tags each frame (with the corresponding customer descriptor) to Frame Relay network, ATM network).

In the page 5, lines 27-28, the applicant argues that neither Chase nor Havala teach or suggest replacing the outer tag and the inner tag with one or more identifier for transmission onto the external network.

However, the examiner respectfully disagrees with the applicant arguments.

Havala (Pub. No.: US 2005/0053079) discloses replacing the VPN label 156 (outer tag) and the forwarding label 158 (inner tag) in place of the tag 152 (one identifier) of the VLAN packet 150.

It would have been obvious to one of ordinary skill in the art at the time of the invention to apply replacing the VPN label 156 and the forwarding label 158 of the

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VLAN packet 150 taught by Havala into the outer tag and inner tag of Chase in order to identify a connection (Havala, page 1 [0004]).

For the reasons above, the examiner respectfully believes the 103 rejection of claims 1, 11, 21, 23 should be sustained.

3. Claim 1-24 are presented for examination.

Information Disclosure Statement

4. The information disclosure statement (IDS) submitted on 05/12/08 was filed after the mailing date of the NON FINAL REJECTION on 11/15/07. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-9, 11-19, 21-22, 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chase et al. (7,092,389) in view of Havala (US 2005/0053079 A1).

As to claim 1, Chase et al. discloses receiving frames at a gateway device (figure 5, ATM switch 30), comprising: receiving a frame at a metro Ethernet gateway (figure 1 (PER 18), figure 5 (ATM switch 30)) coupled to a metro Ethernet network (figure 1, metro network 10) and an external network (figure 5, ATM network, ATM 32-4, 32-5, FR (frame relay) FR 32-1, FR 32-2, FR 32-3);

The frame (figure 2) having an outer tag value (figure 2, VLAN tag 23) identifying a customer site in a metro Ethernet network, an inner tag values, an Ethernet packet header (figure 2, preamble, destination address, source address), and an Ethernet packet payload (figure 2, data field 21);

Determining that the inner tag value identifies a service (ATM, Frame Relay, or IMA) provisioned for customer site (figure 5, col. 5, lines 30-38, the ATM switch 30 maps tags each frame (with the corresponding customer descriptor) to Frame Relay network, ATM network).

However, Chase et al. are silent to disclosing replacing the outer tag and the inner tag with one or more identifiers for transmission onto the external network.

Havala discloses replacing the outer tag and the inner tag with one or more identifiers for transmission onto the external network.(page 3, [0042], replacing the VPN label 156 (outer tag) and the forwarding label 158 (inner tag) in place of the tag 152 (one identifier) of the VLAN packet 150).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply replacing the VPN label 156 and the forwarding label 158 of the VLAN packet 150 taught by Havala into the outer tag and inner tag of Chase in order to

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identify a connection (Havala, page 1 [0004]). Therefore, the combined system would have been enable to mapping the virtual local area network to Multi Protocol Label Switching (MPLS) (Havala, page 1 [0008]).

7. As to claim 11, Chase et al. discloses a gateway device (figure 5, ATM switch 30) coupled to an external network (figure 5, ATM, frame relay, IMA); a metro Ethernet network interface coupled to a metro Ethernet network (figure 1, metro network, figure 5, shared Ethernet trunk in metro network), the frame having an outer tag value (figure 2, VLAN flag), an inner tag value (figure 2, VLAN priority and VLAN tagid) an Ethernet header (figure 2, preamble, destination address, source address), and an Ethernet packet payload (figure 2, data field 21);

Wherein the outer tag value (figure 2, VLAN tag 23) identifies a customer site in a metro Ethernet network;

A processor operable to determine that the inner tag value identifies a service provisioned for the customer site (figure 5, col. 5, lines 30-38, the ATM switch 30 maps tags each frame (with the corresponding customer descriptor) to Frame Relay network, ATM network).

However, Chase et al. are silent to disclosing replacing the outer tag and the inner tag with one or more identifiers for transmission onto the external network.

Havala discloses replacing the outer tag and the inner tag with one or more identifiers for transmission onto the external network.(page 3, [0042], replacing the

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VPN label 156 (outer tag) and the forwarding label 158 (inner tag) in place of the tag 152 (one identifier) of the VLAN packet 150).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply replacing the VPN label 156 and the forwarding label 158 of the VLAN packet 150 taught by Havala into the outer tag and inner tag of Chase in order to identify a connection (Havala, page 1 [0004]). Therefore, the combined system would have been enable to mapping the virtual local area network to Multi Protocol Label Switching (MPLS) (Havala, page 1 [0008]).

8. As to claim 21, Chase et al. discloses a network node (figure 1, PER 18, figure 5, ATM switch 30), comprising: means for receiving a frame at the network node coupled to a metro Ethernet network (figure 1, metro network, figure 5, shared Ethernet trunk in metro network) and an external network (figure 5, ATM, Frame relay, IMA), the frame having an outer tag value (figure 2, VLAN tag 23) identifying a customer site in a metro Ethernet network, an inner tag values (tags, col. 5, lines 30-38), an Ethernet packet header (figure 2, preamble, destination address, source address), and an Ethernet packet payload (figure 2, data field 21);

Means for determining that the inner tag value (ATM, Frame Relay, or IMA) provisioned for customer site (figure 5, col. 5, lines 30-38, the ATM switch 30 maps tags each frame (with the corresponding customer descriptor) to Frame Relay network, ATM network).

However, Chase et al. are silent to disclosing replacing the outer tag and the inner tag with one or more identifiers for transmission onto the external network.

Havala discloses replacing the outer tag and the inner tag with one or more identifiers for transmission onto the external network.(page 3, [0042], replacing the VPN label 156 (outer tag) and the forwarding label 158 (inner tag) in place of the tag 152 (one identifier) of the VLAN packet 150).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply replacing the VPN label 156 and the forwarding label 158 of the VLAN packet 150 taught by Havala into the outer tag and inner tag of Chase in order to identify a connection (Havala, page 1 [0004]). Therefore, the combined system would have been enable to mapping the virtual local area network to Multi Protocol Label Switching (MPLS) (Havala, page 1 [0008]).

9. As to claim 23, Chase et al. discloses receiving a frame at a metro Ethernet gateway (figure 1, PER 18, figure 5, ATM switch 30) coupled to a metro Ethernet network (figure 1, metro network 10) and an external network (figure 5, ATM network, ATM 32-4, 32-5, FR (frame relay) FR 32-1, FR 32-2, FR 32-3);

The frame having an outer tag value (figure 2, VLAN tag 23) identifying a customer site in a metro Ethernet network, an inner tag values (tags, col. 5, lines 30-38), an Ethernet packet header (figure 2, preamble, destination address, source address), and an Ethernet packet payload (figure 2, data field 21);

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Means for determining that the inner tag value (ATM, Frame Relay, or IMA) provisioned for customer site (figure 5, col. 5, lines 30-38, the ATM switch 30 maps tags each frame (with the corresponding customer descriptor) to Frame Relay network, ATM network).

However, Chase et al. are silent to disclosing replacing the outer tag and the inner tag with one or more identifiers for transmission onto the external network.

Havala discloses replacing the outer tag and the inner tag with one or more identifiers for transmission onto the external network.(page 3, [0042], replacing the VPN label 156 (outer tag) and the forwarding label 158 (inner tag) in place of the tag 152 (one identifier) of the VLAN packet 150).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply replacing the VPN label 156 and the forwarding label 158 of the VLAN packet 150 taught by Havala into the outer tag and inner tag of Chase in order to identify a connection (Havala, page 1 [0004]). Therefore, the combined system would have been enable to mapping the virtual local area network to Multi Protocol Label Switching (MPLS) (Havala, page 1 [0008]).

10. As to claim 2, Chase et al. discloses determining that the inner tag identifies a service (figure 5, ATM, Frame relay, IMA) provisioned for the customer comprises determining if the inner tag (figure 2, customer descriptor 22') has reserved value (figure 2, VLAN priority and VLAN tagid, customer descriptor 22') (col. 3, lines 56-62).

11. As to claim 3, Chase et al. discloses wherein the external network is an ATM network (figure 5, ATM, Frame relay, IMA).

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12. As to claim 4, Chase et al. discloses wherein the inner tag value identifies a service (figure 5, ATM, Frame relay, IMA) provisioned for the customer and virtual circuit associated with an ATM network (col. 5, lines 20-25, lines 35-38).

13. As to claim 5, Chase et al. discloses wherein the one or more identifiers are used to specify the virtual circuit (col. 5, lines 20-25, lines 35-38).

14. As to claim 6, Chase et al. discloses wherein the external network is an IP network (see abstract, An Ethernet Metropolitan Area Network (10) provides connectivity to one or more customer premises (16.sub.1,16.sub.2,16.sub.3) to packet-based services, such as ATM, Frame Relay, or IP, while advantageously providing a mechanism for assuring security and regulation of customer traffic. Upon receipt of each customer-generated information frame (20), an ingress Multi-Service Platform (MSP) (12.sub.2) "tags" the frame with a customer descriptor (22') that specifically identifies the recipient customer. In practice, the MSP tags each frame by overwriting the Virtual Local Area Network (VLAN) identifier (22) with the customer descriptor. Using the customer descriptor in each frame, a recipient Provider Edge Router (PER) (18) or ATM switch can map the information as appropriate to direct the information to the specific customer at its receiving site. In addition, the customer descriptor (22') may also include Quality of Service (QoS) information, allowing the recipient Provider Edge Router (PER) (18) or ATM switch to afford the appropriate QoS level accordingly. Each Ethernet switch may advantageously overwrite the VLAN identifier at an incoming port with a second tag associated with an egress port to increase the scale associated with single switch).

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15. As to claim 7, Chase et al. discloses the inner tag value identifies a provisioned IP network service (abstract, An Ethernet Metropolitan Area Network (10) provides connectivity to one or more customer premises (16.sub.1,16.sub.2,16.sub.3) to packet-based services, such as ATM, Frame Relay, or IP, while advantageously providing a mechanism for assuring security and regulation of customer traffic. Upon receipt of each customer-generated information frame (20), an ingress Multi-Service Platform (MSP) (12.sub.2) "tags" the frame with a customer descriptor (22') that specifically identifies the recipient customer. In practice, the MSP tags each frame by overwriting the Virtual Local Area Network (VLAN) identifier (22) with the customer descriptor. Using the customer descriptor in each frame, a recipient Provider Edge Router (PER) (18) or ATM switch can map the information as appropriate to direct the information to the specific customer at its receiving site. In addition, the customer descriptor (22') may also include Quality of Service (QoS) information, allowing the recipient Provider Edge Router (PER) (18) or ATM switch to afford the appropriate QoS level accordingly. Each Ethernet switch may advantageously overwrite the VLAN identifier at an incoming port with a second tag associated with an egress port to increase the scale associated with single switch).

16. As to claim 8, Chase et al. disclose the limitations of claim 1 above.

However, Chase et al. are silent to disclosing wherein the outer tag and the inner tag are replaced with one or more identifiers for tunneling to an IP network

Havala et al. discloses wherein the outer tag and the inner tag are replaced with one or more identifiers for tunneling to an IP network ([0040] [0042]).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply replacing the VPN label 156 and the forwarding label 158 of the VLAN packet 150 taught by Havala into the outer tag and inner tag of Chase in order to identify a connection (Havala, page 1 [0004]). Therefore, the combined system would have been enable to mapping the virtual local area network to Multi Protocol Label Switching (MPLS) (Havala, page 1 [0008]).

17. As to claim 9, Chase et al. disclose the limitations of claim 1 above.

18. However, Chase et al. are silent to disclosing wherein the metro Ethernet network is multiport layer 2 virtual private network.

Havala et al. discloses wherein the metro Ethernet network is multiport layer 2 virtual private network ([0040] [0042]).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply replacing the VPN label 156 and the forwarding label 158 of the VLAN packet 150 taught by Havala into the outer tag and inner tag of Chase in order to identify a connection (Havala, page 1 [0004]). Therefore, the combined system would have been enable to mapping the virtual local area network to Multi Protocol Label Switching (MPLS) (Havala, page 1 [0008]).

19. As to claim 12, claim 12 is rejected the same reasons of claim 2 above.

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20. As to claim 13, claim 13 is rejected the same reasons of claim 3 above.
21. As to claim 14, claim 14 is rejected the same reasons of claim 4 above.
22. As to claim 15, claim 15 is rejected the same reasons of claim 5 above.
23. As to claim 16, claim 16 is rejected the same reasons of claim 6 above.
24. As to claim 17, claim 17 is rejected the same reasons of claim 7 above.
25. As to claim 18, claim 18 is rejected the same reasons of claim 8 above.
26. As to claim 19, claim 19 is rejected the same reasons of claim 9 above.
27. As to claim 22, claim 22 is rejected the same reasons of claim 2 above.
28. As to claim 24, claim 24 is rejected the same reasons of claim 2 above.

Claim Rejections - 35 USC § 103

29. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

30. Claims 10, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined system (Chase –Havala) in view of Lee (2004/0165600).

As to claim 10, the combined system discloses the limitations of claim 1 above.

However, the combined system (Chase – Havala) are silent to disclosing the inner tag and outer tags are QinQ tags.

Lee (2004/0165600) discloses the inner tag and outer tags are QinQ tags ([0039], QinQ, [0015], ATM, MPLS, Frame relay).

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Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the inner tag and outer tags are QinQ tags taught by Lee into the combined system (Chase – Havala). One would have been motivated to do so to reduce in the needed skill level of operations management personal because the learning bridge function can now safely be performed at Customer Located Equipment (CLEs) and controlled by the customer only (page 3, [0021].

31. As to claim 20, claim 20 is rejected the same reasons of claim 10 above.

32. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHUONG T. HO whose telephone number is (571) 272-3133. The examiner can normally be reached on 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ORGAD EDAN can be reached on (571) 272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

08/25/08

/Edan Orgad/

Supervisory Patent Examiner, Art Unit 2619